

The taxability of maintenance agreements depends upon whether charges for the agreements are included in the selling price of the tangible personal property. See 86 Ill. Adm. Code 140.301. (This is a GIL.)

May 17, 2007

Dear Xxxxx:

This letter is in response to your letter dated August 3, 2006, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are updating our records in States where we respond to the administration of claims against Vehicle Service Contracts. We request the following information in order that we may comply with the applicable tax laws in your state.

1. As dealers issuing and servicing the vehicle service contracts or warranty contracts, do we pay sales taxes on authorized repairs of covered vehicle specifically for parts, labor or deductible? If so, please explain.
2. As transient dealers (repair shops) who have nothing to do with the contracts but do the authorized repairs on our customers covered vehicles, do they pay sales tax on those repairs for parts and labor? If so, please explain.

In addition, to assist our understanding about the sales tax laws in your state, kindly send information regarding the applicable and or recent sales and use tax laws, including registration requirements, if any.

The information requested may be forwarded to my attention at the address listed below.

Thank you for your time and attention to this matter.

## DEPARTMENT'S RESPONSE:

The taxation of maintenance agreements is discussed in subsection (b)(3) of Section 140.301 of the Department's administrative rules under the Service Occupation Tax Act. See 86 Ill. Adm. Code Sec. 140.301(b)(3). The taxability of maintenance agreements depends upon if charges for the agreements are included in the selling price of the tangible personal property. If the charges for the agreements are included in the selling price of the tangible personal property, those charges are part of the gross receipts of the retail transaction and are subject to tax. In those instances, no tax is incurred on the maintenance services or parts when the repair or servicing is performed.

If maintenance agreements are sold separately from tangible personal property, sales of the agreements are not taxable transactions. However, when maintenance services or parts are provided under the maintenance agreements, the service or repair companies will be acting as service providers under provisions of the Service Occupation Tax Act that provide that when service providers enter into agreements to provide maintenance services for particular pieces of equipment for stated periods of time at predetermined fees, the service providers incur Use Tax based on their cost price of tangible personal property transferred to customers incident to the completion of the maintenance service. See 86 Ill. Adm. Code Sec. 140.301(b)(3).

Your letter states that your business may be a third party provider for the performance of certain services under maintenance agreements. Please be informed that businesses that do service work for customers of another business are sometimes considered secondary servicemen in multi-service situations. Multi-service situations exist where a primary serviceman subcontracts work to a secondary serviceman. See 86 Ill. Adm. Code 140.145 for information about the tax consequences of multi-service situations.

In addition, you may find further information by reviewing the Department's "Sunshine Letter Rulings" and the above regulations which may be found on the Department's Internet website under the heading of "Laws/Regs/Rulings." For example, please see general information letters ST 02-0117-GIL and ST 01-0144-GIL and other letters under the heading of Letter Rulings, Sales Tax. Information regarding business registrations can be found on the Department's Internet website under the headings of "Businesses."

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
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TDC:msk